

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Maurice Nelson and Christi Marshall,

Plaintiffs,

v.

Pace Suburban Bus and Margaret Murry,

Defendants.

No. 17-cv-7697

Judge John Z. Lee

DEFENDANTS' OPPOSED MOTION FOR SUMMARY JUDGMENT

Defendants Pace Suburban Bus and Margaret Murry, by their undersigned counsel, pursuant to Fed.R.Civ.P. 56(a), move for summary judgment on all eight counts and all claims of Plaintiffs Maurice Nelson and Christi Marshall alleged in their Second Amended Complaint (DKT 69) ("Complaint") on the ground that there is no genuine dispute as to any material fact and Defendants are entitled to judgment as a matter of law. In support of their Motion, Defendants concurrently submit their LR 56.1 Statement of Facts and accompanying exhibits, their Memorandum of Law (with unopposed Motion for leave to file enlarged brief), and state as follow:

1. All Plaintiffs' claims in all eight counts of their Complaint allege race discrimination on theories of disparate impact or disparate treatment.

2. Plaintiffs' disparate impact claims fail as a matter of law because: (a) their raw numerical comparisons do not raise a triable issue of disproportionate impact on African-American Operators; (b) Plaintiffs fail to show a causal connection between any specific employment practice and an alleged disparate impact; (c) Defendants amply demonstrate that the discipline issued to each Plaintiff was job-related and consistent with business necessity; and (d) Plaintiffs do not show a "less discriminatory" and equally valid method to administer discipline at Heritage Garage or provide admissible evidence of such method.

3. Plaintiffs' disparate treatment claims fail because: (a) they cannot demonstrate a genuine issue of material fact as to their not meeting Pace's legitimate expectations and the absence of any similarly situated non-African-American employees treated more favorably than Plaintiffs; and (b) no facts of record would permit a reasonable jury to conclude that Plaintiffs' race caused their suspensions or terminations.

4. Plaintiffs present no evidence from which a jury could find a pattern or practice of discrimination.

5. No evidence of racial animus or any agreement to injure Plaintiffs supports their civil conspiracy claims.

6. Plaintiffs' claims under the Illinois Human Rights Act fail for lack of exhausting administrative remedies.

For all these reasons, and as demonstrated in Defendants' accompanying LR 56.1 Statement and Memorandum of Law, Defendants ask that this Court enter summary judgment in their favor on all counts and claims of Plaintiffs' Complaint.

Dated: April 28, 2022

Respectfully submitted,

PACE BUS SERVICES and MARGARET MURRY

By: /s/ David L. Weinstein

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